

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12930 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

GSRTC

Versus

SB PAKHRE

Appearance:

1. Special Civil Application No. 12930 of 1994
MR HS MUNSHAW for Petitioner No. 1
MR KR KOSHTI for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 18/10/2004

ORAL JUDGEMENT

In this petition filed exclusively under Article
227 of the Constitution, the petitioner-Corporation has
challenged the award and order dated 7.04.1994 by which

the respondent is awarded reinstatement with full backwages. The award is based on consideration of the facts on record to the effect that there was no evidence in respect of the alleged misconduct of the respondent even after an express order of the Court holding that the finding of the departmental enquiry held against the respondent was not acceptable. There was also no evidence as regards the employment of the respondent after his dismissal on 9.03.1988.

2. It was submitted by the learned counsel appearing on both sides that in view of the facts and circumstances, while admitting the petition, although injunction against operation of the award was granted, the respondent was reinstated in June 1994 and by now the respondent has already retired on reaching the age of superannuation in March, 2003. Therefore, the question of reinstatement was not seriously addressed and the learned counsel requested that the backwages may be suitably reduced in view of the pendency of the reference for about six years. Having regard to the facts and circumstances, and by consent, the award is modified to the extent that the respondent shall be entitled to 50% of backwages instead of full backwages as awarded by the impugned award. The rest of the impugned award remains intact. The petition is accordingly partly allowed and Rule is made absolute accordingly with no order as to costs.

3. The learned counsel for the petitioner fairly made a statement that the amount due under the award, as modified by this order, shall be paid to the respondent latest by 31.12.2004.

(D.H.Waghela, J)
Jayanti*